



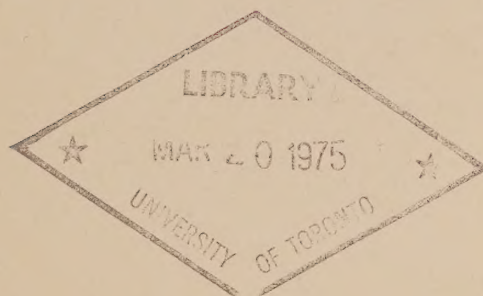
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The Royal Commission on the conduct of Police Forces at Fort Erie on the 11th of May, 1974

[Report]



Commissioner
John A. Pringle



The Royal Commission on the conduct of Police Forces at Fort Erie on the 11th of May, 1974

Commissioner
John A. Pringle

The Royal Commission
on the Conduct of
Police Forces of Part B
on the 11th of May 1975





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THE ROYAL COMMISSION
ON
THE CONDUCT OF POLICE FORCES
AT FORT ERIE ON THE 11TH OF MAY, 1974

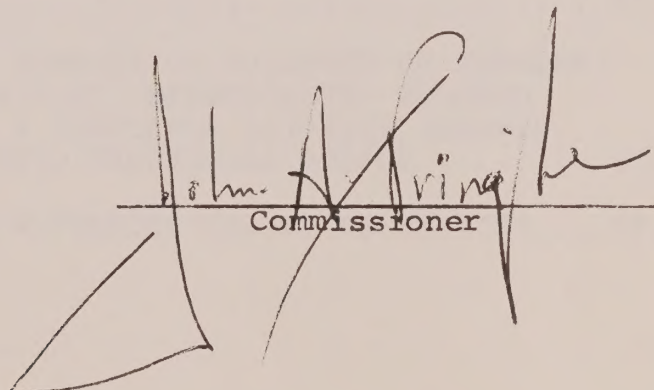
COMMISSIONER: HIS HONOUR JUDGE J. A. PRINGLE
COUNSEL: BURTON H. KELLOCK, Q.C.
ASSOCIATE COUNSEL: PAUL D. AMEY
SECRETARY: J. W. LIDSTONE

To Her Honour,
The Lieutenant-Governor of
the Province of Ontario.

May it please Your Honour:

On the 7th day of June, 1974, I was duly
appointed a Commissioner to investigate the conduct of
Police Forces at Fort Erie on the 11th of May, 1974,
and to make such recommendations as I may deem fit.
Having performed the duties as set out in the Order-
in-Council, I herewith submit my report.


January, 1975.


Commissioner

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Executive Council

Copy of an Order-in-Council approved by
Her Honour the Lieutenant Governor, dated the 7th
day of June, A.D. 1974.

The Committee of Council have had under
consideration the report of the Honourable the Solicitor
General, dated June 10th 1974, wherein he states that,

WHEREAS the conduct and the performance of
duties by police officers and constables at the Landmark
Motor Inn Hotel in or about the Town of Fort Erie in
The Regional Municipality of Niagara on the 11th day
of May, 1974 is a matter of public concern.

AND WHEREAS such matter affects the administra-
tion of justice in Ontario and it is thought fit to refer
this matter to an inquiry instituted pursuant to the
provisions of The Public Inquiries Act, 1971, S.O. 1971,
Chapter 49.

The Honourable the Solicitor General there-
fore recommends that pursuant to the provisions of The
Public Inquiries Act, 1971, S.O. 1971, Chapter 49, a
Commission be issued to appoint His Honour John
Abercrombie Pringle, Judge of the County Court of the
Judicial District of Norfolk, a Commissioner to inquire
into the circumstances respecting the conduct and the
performance of duties by such police officers and constables

at the Landmark Motor Inn Hotel on the 11th day of May, 1974, and to report thereon and to make such recommendations to the Lieutenant Governor in Council as he may deem fit.

The Honourable the Solicitor General further recommends that all Government Ministries, Boards, Agencies and Committees shall assist His Honour Judge John Abercrombie Pringle to the fullest extent in order that he may carry out his duties and functions, and that he shall have authority to engage such counsel, investigators and other staff as he deems it proper at rates of remuneration and reimbursement to be approved by the Management Board of Cabinet.

The Committee of Council concur in the recommendations of the Honourable the Solicitor General and advise that the same be acted on.

Certified,


Clerk, Executive Council.



THE ROYAL COMMISSION
ON
THE CONDUCT OF POLICE FORCES
AT FORT ERIE ON THE 11TH OF MAY, 1974

COMMISSIONER: HIS HONOUR JUDGE J. A. PRINGLE
COUNSEL: BURTON H. KELLOCK, Q.C.
ASSOCIATE COUNSEL: PAUL D. AMEY
SECRETARY: J. W. LIDSTONE

INTRODUCTION

May it please Your Honour:

The subject matter referred to me by the Order-in-Council establishing this inquiry was, "to inquire into and report on the circumstances respecting the conduct and the performance of duties by police officers and constables at the Town of Fort Erie in the Regional Municipality of Niagara, on the 11th day of May, 1974."

In the Commission issued to me by Her Honour the Lieutenant Governor in Council, I was further directed to make such recommendations as I deem fit.

For the inquiry I was afforded the assistance of Burton H. Kellock, Q.C., as Commission Counsel, and Paul D. Amey, Associate Commission Counsel. Mr. Thomas Jamieson appeared as Counsel for the owners and operators of the

Landmark Motor Inn, which hereinafter will be referred to as the "Landmark". Mr. G. McNabb, for the Niagara Regional Board of Commissioners of Police, and Mr. Gerald McCracken for the Attorney General of Canada.

For the capable and thorough presentation of the evidence by Commission Counsel, Messrs. Kellock and Amey, I owe much. The excellent investigative and organizational work done by Staff Superintendent John William Lidstone, O.P.P., as Secretary, and the members of his investigation team, expedited the hearing and assisted all concerned. My thanks also to Mr. K. Charles Bannister, High Sheriff of the Judicial District of Norfolk, for his assistance to the Commission in his capacity as Registrar.

Public notice of the hearing was given, being published in the following newspapers on or after the 9th day of July, 1974: The Times Review, Fort Erie, Ontario; Niagara Falls Review, Niagara Falls, Ontario; St. Catharines Standard, St. Catharines, Ontario; Welland-Port Colborne Tribune, Welland, Ontario; The Hamilton Spectator, Hamilton, Ontario; The Globe & Mail, Toronto, Ontario; The Toronto Star, Toronto, Ontario; The Toronto Sun, Toronto, Ontario.

The hearings commenced on July 22, 1974.

I report the results of the Inquiry as follows:

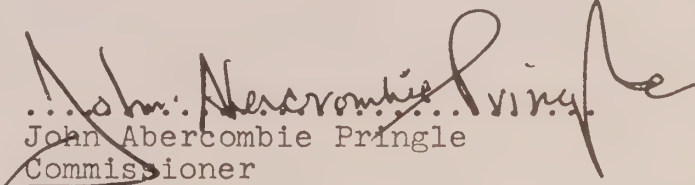
The Chapters and Appendices set out the factual situation, prior to and as of 10th, May - 1974 and the actual operation respecting the search of persons and premises, and concluding with my findings and recommendations.

In the Chapters I have attempted to present the facts as were elicited from ninety-eight witnesses and fifty-five exhibits filed. The witnesses who gave evidence before me were examined, cross-examined and on occasion re-examined by the three counsel representing the interested parties. The public were invited to attend and present their views, but only one representative attended, a Mr. A.A. Borovoy, who on the last day presented the views of the Canadian Civil Liberties Association. Several letters were received by the Commission from concerned citizens.

I have tried to divest this report of immaterial trivia and ascertain in cases of conflict where the truth lies.

The recommendations I submit with full knowledge of the difficulty police officers have in attempting to enforce a law that gives them the right to search places, persons and dwelling houses in the never ending struggle with that element in our society that supply individuals with narcotics, restricted and controlled drugs.

All of which is respectfully submitted.


John Abercombie Pringle
Commissioner

CHAPTER IBACKGROUND & EVENTS CULMINATING IN THE EXECUTIONOF THE WARRANT TO SEARCH UNDER SEC. 3 (1)NARCOTIC CONTROL ACT, 1960-61, R.S.C. 35.

On May 1st, 1974, the Chief of Police while attending a meeting with the Niagara Regional Police Association received information from his officers in the Fort Erie Detachment expressing their concern with activities taking place at the Landmark. The information given to the Chief concerned the conduct of young people who gathered there, motorcycle people, resulting in apparent breaches of the Narcotic Control Act (Canada), and The Liquor Control Act (Ontario). Other hotels were also mentioned. The Chief at that time said he would pass the information to Acting Inspector Parkhouse of the Intelligence Unit for further investigation. The Niagara Regional Police Force shall, from time to time, hereinafter be referred to as the "N.R.P.F."

For the better understanding of the events prior to the execution of the warrant to search the Landmark on the 11th day of May, 1974, I have set out in abbreviated form and as nearly as possible in numerical sequence, the major conversations, instructions, orders and actions given by Acting Inspector Parkhouse to the raiding party.

The operation was planned and directed by the Intelligence Branch of the Niagara Regional Police Force with the approval of the Chief of Police. The R.C.M.P. assisted. Acting Inspector Parkhouse had never received any course of instruction concerning planning and management of a large scale drug search as was undertaken at the Landmark on the 11th, May 1974.

The Landmark is situated at the junction of the Queen Elizabeth Way and Netherby Road in the Town of Fort Erie. Ownership was acquired by Mr. John Lane in April, 1972. The Landmark is a licenced premises under the provisions of The Liquor Licence Act of Ontario. (The subject licence limiting the restaurant area to twenty-eight persons, the dining lounge to eighteen persons and bar to eighty-three persons, a total of 119. On the night of the raid, 115 persons were present.

- (1) Acting Inspector Parkhouse first became aware of the Landmark in law enforcement context October 11th, 1973. Vehicle checked in parking lot of Landmark, two arrests for possession of marijuana.
- (2) April 27th, 1974 - Report of Constable Sparling, Fort Erie Detachment, Exhibit 17 - Appendix A. John DiFrancesco and Mario Casarsa travelling from Fort Erie to Niagara Falls to purchase narcotics, then going to the Landmark and selling to the patrons and local people. Sergeant Millejours

instructed to carry on investigation. One week later, meeting held. Acting Inspector Parkhouse now has had conversations with Inspector Fare and Chief Shennan re Landmark.

- (3) May 1st, 1974, Acting Inspector Parkhouse received call from Inspector Fare, who had received information from confidential sources that drugs were being openly sold and used at the Landmark, violations of The Liquor Control Act, overcrowding, consuming in non-licenced sections, including the parking lot, an employee, Robert St. Denis, trafficking in narcotics at hotel.
- (4) May 2nd, 1974, Meeting with Chief. Chief advised Acting Inspector Parkhouse he (the Chief) had received complaints re the Landmark, drug use and liquor violations. Acting Inspector Parkhouse informs Chief of conversation with Fare. Decision to send in undercover men to ascertain if this information is factual. Constables Sauder and Chambers selected to go to Landmark. Both these officers had long hair, one bearded, in age bracket 18 - 25. Acting Inspector Parkhouse assured Chief that the undercover men, though local, will not be spotted.

- (5) Thursday, May 2nd, 1974 (afternoon), Acting Inspector Parkhouse informed by Sergeant Millejours that Constable Mills of the R.C.M.P. was in receipt of information to the effect that he (Mills) could make a buy at the Landmark. Sergeant Shennan gave information to Acting Inspector Parkhouse re Messrs. Casarsa, DiFrancesco and one Ronald Kupina, a known drug trafficker who was employed at Landmark. Constables Sauder and Chambers to commence their undercover work on Friday and Saturday.
- (6) Saturday, May 3rd, 1974, Acting Inspector Parkhouse receives report from Sergeant Millejours:
- (1) Marijuana being openly smoked on the premises.
 - (2) Violations of The Liquor Control Act. Acting Inspector Parkhouse to receive documented observation from Chambers.
- (7) Sunday, May 5th, 1974, Acting Inspector Parkhouse receives memorandum from Constable Chambers containing his observations of May 3rd, 1974. (Exhibit 18, Appendix A)
- (8) Acting Inspector Parkhouse receives memo on May 11th, 1974, from Constable Chambers dated May 10th 1974. (Exhibit 19, Appendix A)

- (9) Further memo to Acting Inspector Parkhouse from Sergeant Millejours, May 11th, 1974. (Exhibit 20, Appendix A)
- (10) Report of Constable L. DeSimone to Staff Sergeant Wilson dated May 2nd, 1974. (Exhibit 21, Appendix A)
- (11) May 6th, 1974, Acting Inspector Parkhouse attempts to contact Detective Sergeant Scragg of O.P.P. Liquor Squad. Detective Sergeant Scragg later returns call from Acting Inspector Parkhouse and informs him that he would be unable to supply personnel for the weekend of May 10th-11th, but would be willing to assist at a future date.
- (12) May 8th, 1974, Acting Inspector Parkhouse meets with Deputy Chief Gayder and Inspector Fare. They have a discussion as to layout of premises, the necessity for sufficient uniformed officers to protect the property of the owner. The Deputy Chief and Acting Inspector Parkhouse agree on the total number of uniformed officers required and their deployment left to Acting Inspector Parkhouse. The necessity for R.C.M.P. assistance is obvious as N.R.P.F. has only eight men in Intelligence office who work on drugs part time.

- (13) Number of plain clothes officers needed to conduct search:

R.C.M.P.	10
N.R.P.F. (Intelligence Unit)	12
(C.I.B.)	
Female	2
Identification	2
Uniformed Officers	30
Duty Inspector	
Sergeant Danko	
Sergeant Simms	
Acting Inspector Parkhouse	

- (14) Prior to Saturday (excluding the meeting with the Deputy Chief) there was no meeting re planning for raid.

- (15) In conversation with Sergeant Millejours, Acting Inspector Parkhouse expected to be searching everyone, if observations continued to be the same. The type of search to be given individuals was not discussed.

- (16) May 11th, 1974, 9:00 p.m., Acting Inspector Parkhouse briefs policewomen Hexemer and MacDonald, Sergeant Millejours, five R.C.M.P. Officers and six other Officers - goes over with them the memos given to him by Constable

Chambers - advises assembled Officers that violations of the Narcotic Control Act had been observed, smoking of marijuana, odour of marijuana throughout the premises, overcrowding, offences under The Liquor Control Act being committed such as drinking beer in lobby, doorman drinking and under-age drinkers on the premises, and breaches of the Liquor Control Act in the parking lot. The Inspector shows and reads to the officers the warrant to search.

- (17) Constables Sauder and Chambers are instructed to leave immediately for the Landmark and gain entry. Constables Boston, McLaren and Miller leave to go to the Landmark in a group. At least twelve officers were to go into the Landmark prior to arrival of main body so that they could pick out any individuals trafficking. From the reports of the officers, it was estimated that 115 people would be in the Landmark.

Instructions re Searching Male and Female
Persons given at Briefing, 9:00 p.m.,
May 11th, 1974.

- Everyone would be searched.
- No instructions where searches to be conducted in the Landmark.

- Sketch of floor plan of Landmark prepared by Constable Boston from memory, and it was not accurate.
 - No alternative plan of operation was in reserve other than cancelling raid if found inappropriate to proceed.
 - Sergeant Millejours to be "contact man" at scene and have radio contact with Acting Inspector Parkhouse.
 - Uniformed Branch men to go to the Landmark at 11:00 p.m.
 - Plainclothes officers who gained early entry into Landmark were to contact Acting Inspector Parkhouse by radio if in their discretion they felt the operation should not proceed.
 - Acting Inspector Parkhouse expected them to do this, but they did not know that this was expected of them.
- (18) 10:00 p.m., Police Headquarters, St. Catharines. Acting Inspector Parkhouse meets uniformed officers, Identification officers, and balance of plain clothes N.R.P.F. and R.C.M.P. officers not in the advance party. Tells them that the Landmark will be searched, and the basis for the search, but does not specify that only the public places and the persons therein will be searched.

- (19) Earlier in the afternoon, Parkhouse gives instructions to Sergeant Millejours re obtaining warrant to search; Acting Inspector Parkhouse expected Sergeant Millejours to draw the information to obtain a search warrant, under the Narcotic Control Act for the public places of the Landmark; and a warrant to search the premises of the owner of the Landmark.
- (20) Acting Inspector Parkhouse was advised by the R.C.M.P. that it was not necessary to get a warrant to search the motel units as they would use their Writs of Assistance if anyone found at the motel was occupying a motel unit.
- (21) Acting Inspector Parkhouse knew a warrant was not necessary to search the public area.
- (22) Acting Inspector Parkhouse instructed the Sergeants (Simms and Davis) to see that a Sergeant and a Constable were assigned to each door of Landmark to prevent people entering or leaving. After patrons had been searched, two officers were by telephone to check all patrons through the Canadian Police Information Centre.

Further, two officers were to record names and addresses of patrons. The uniformed officers were not to make searches unless they felt something should be done at that moment. Uniformed officers to go into Landmark at 11:00 p.m. on command from Acting Inspector Parkhouse who had radio contact with them.

- (23) Vehicles were to go to area of Landmark and so conceal themselves that they would be unobserved. It is well to note that there was no route plan devised or approved so that some vehicles of the N.R.P.F. actually drove by the Landmark immediately prior to the raid and it is conceivable that this manoeuvre could have seriously jeopardized the whole operation. Though the evidence on this facet of the operation is inconclusive in any event it was not a sound "manoeuvre".

- (24) 10:45 p.m., Parkhouse is now in the environs of the Landmark.

Acting Inspector Parkhouse is told via radio by Sergeant Millejours "Someone had been spotted" and that he (Millejours) would call Acting Inspector Parkhouse back.

NOTE: Acting Inspector Parkhouse was not informed as to the time when the persons had been spotted or who in fact they were. He had no idea that 45 to 55 minutes before the raid commenced, the presence of police officers in the Landmark was known to a person about to stand trial for trafficking in narcotics. Sergeant Millejours called Parkhouse back, and in the words of Acting Inspector Parkhouse, "instructed me the raid would have to go ahead early and we should move in now." (P. 293, transcript, line 28)

Acting Inspector Parkhouse estimated a time of one minute is all that is required for a drug dealer to leave the premises or dispose of drugs.

Acting Inspector Parkhouse and the uniformed officers arrived at Landmark at 10:50 p.m. Order to move in was given at approximately 10:49 p.m. Sergeant Millejours entered the Landmark, made an announcement over loudspeaker system that a raid is being conducted by the Niagara Regional Police Force.

- (25) Sergeant Millejours, after entry, meets Jonathan Lane and his father.

- (26) Sergeant Millejours in the Landmark shows Edward John Lane warrant to search and asked the Lanes questions re drug problem in Landmark. To Acting Inspector Parkhouse and Sergeant Millejours, Edward John Lane indicated there was nothing he could do about it as it was the band that drew this type of crowd and in respect of the employees, these were hired by his son, John.
- (27) Between 11:40 and 12:00 (midnight), Police Woman Constable MacDonald, tells Acting Inspector Parkhouse that one of the female patrons refused to be searched until she contacted her parents, even after she had been advised by Constable MacDonald of the reason for the search. Constable MacDonald did not tell Acting Inspector Parkhouse that strip searches were being done on all women and Acting Inspector Parkhouse says he did not know this was the case.
- (28) It was not until there was either a public outcry or an inquiry by the Chief that Acting Inspector Parkhouse first knew that thirty-six women had been strip searched.

From the foregoing summary, I concluded that the decision by Acting Inspector Parkhouse to search all the patrons was based on:

- (1) The reported widespread use of narcotics.
- (2) Constable Chambers' report re the smell of marijuana throughout the premises.
- (3) (Transcript P. 308, line 25) "I felt that everyone in the place would realize what was going on and it would be obvious to them what was going on and they would be participants in this type of activity."

CHAPTER II
THE INVESTIGATION AND DIRECTION BY
ACTING INSPECTOR PARKHOUSE

As previously stated, prior to receiving the information relayed to him by the Chief of Police, A/Inspector Parkhouse of the Intelligence Unit had been aware of drug activity at the Landmark in October, 1973. It is important to note that this was in respect to an arrest of two persons in an automobile in the parking lot for an offence under Section 3(1) of the Narcotic Control Act. This arrest was effected by the Fort Erie Detachment of the Niagara Regional Police.

The Landmark next came to the attention of the Niagara Regional Police Force on April 27th, 1974, when A/Inspector Parkhouse was in Fort Erie. The information given to A/Inspector Parkhouse and Constable Sparling disclosed that on Thursday, April 25th, 1974, Constable Sparling had received information from a reliable source that a man and woman were in a Fort Erie hotel on Wednesday April 24th, 1974, and during the evening were selling nickel (\$5.00) and dime (\$10.00) bags of marijuana to the patrons. While trying to sell a bag to Constable Sparling's informant, a conversation was overheard to the effect that the couple were through at a Fort Erie hotel and were going to the Landmark to try and sell the

marijuana. On Saturday, April 27th, 1974, Constable Sparling received information that two Fort Erie men, one Joe DiFrancesco, who on the 17th of May, 1974, at the County Court for the Judicial District of Niagara South at the City of Welland, was convicted of conspiracy to traffic in heroin and, on June 7th, 1974, was sentenced to twelve months definite and eight months indeterminate, and Mario Casarsa, Henrietta Street, were selling drugs at the Landmark.

A/Inspector Parkhouse, on May 1st, 1974, received information from Inspector Earl Fare of the Niagara Regional Police, that two employees of the Landmark, Robert St. Denis and Norman Perret, were involved in drug trafficking at the Landmark. A meeting between the Chief of Police and A/Inspector Parkhouse produced a decision to use undercover operators to substantiate the report of Inspector Fare. Constables Sauder and Chambers of the Niagara Regional Police Force were assigned this task, their duties to commence on the night of Friday, May 3rd. A/Inspector Parkhouse assured the Chief that local undercover agents would not be recognized.

It is now necessary to outline in detail what was observed by the officers on the evening of Friday, May 3rd, 1974, between the hours of 10:30 p.m. and 11:30 p.m.

See Exhibit 18, Appendix A,
See Exhibit 19, Appendix A,
See Exhibit 20, Appendix A.

On the basis of these observations, it is quite apparent that there existed "reasonable and probable grounds" and a preponderance of credible evidence to request a Justice of the Peace to issue a warrant, if one is or was needed to search under Section 3(1) of the Narcotic Control Act, the premises of the Landmark, R.R. 2, Stephenville.

On May 11th, 1974, at 5:30 p.m., Sergeant Millejours and Sergeant Shennan of the Niagara Regional Police Force, attended at the residence of Robert Wood, a Justice of the Peace. Mr. Wood was appointed a Justice of the Peace on July 6th, 1971, and prior to that had been a police officer. Sergeant Millejours gave to Mr. Wood two informations, one in respect to a search of the Landmark and the other in respect to a dwelling he assumed to be the premises of Edward J. Lane, also located at the Landmark. The facts presented to Mr. Wood were from observations made and these were put out in the information to support the request for a search warrant under Section 3 of the Narcotic Control Act. Mr. Wood, after considering the evidence disclosed by Sergeant Millejours, issued search warrants which were entered as Exhibits 12 and 13.

Mr. Wood was unable to provide the Commission with the informations upon which he based his issuance of the search warrants. According to the evidence of Mr. Wood, there is no direction given or equipment supplied to Justices of the Peace which would indicate they should retain the informations that form the basis for the issuance of warrants. This serious apparent lack of interest by the Ministry of the Attorney General of the Province of Ontario, should be remedied forthwith. Apart from the diary kept by Mr. Wood, his viva voce evidence and that of Sergeant Millejours, there was no record before the Commission of the factual material considered by Mr. Wood prior to his issuing the warrants to search.

Before proceeding further, it should be stated that Mr. John Lane, Sr., the owner of the Landmark, testified that he was unaware of the use of drugs on the premises by any of his customers, or that some of his employees were known to the police for their involvement in the illegal use of drugs. He expressed to the Commission, his opinion that if the police had approached him prior to the raid of May 11th, 1974, he would have been more than willing to do his best to eradicate any illegal practices taking place on the premises by his staff and patrons involving the use of drugs and breaches of the liquor laws. At no time prior to the raid of May 11th, 1974, was Mr. Lane or his son, Jonathan, who assists him in the operation of the business, approached by any law enforcement officers.

Due to the number of patrons, with the resulting overcrowding, Mr. Lane at times used the services of a doorman, who was usually paid with free beer.

CHAPTER III

THE DRUG SITUATION IN THE NIAGARA PENINSULA

The Landmark is located a distance of 7.3 miles from the Peace Bridge, Fort Erie, and 13.8 miles from the Rainbow Bridge, Niagara Falls. Both bridges link Canada to the United States of America.

To fully understand the problems of the Niagara Regional Police Force and the R.C.M.P. Detachment in the Niagara Frontier, it was necessary to consider the effect of the drug laws in the State of New York on the traffic of drugs in the Niagara Peninsula. Evidence in this respect was given by Senior Investigator Lloyd Schwab of the New York State Police, whose particular area of enforcement includes the area of Niagara Falls, New York, and Buffalo, as well as the eight western New York counties, all being referred to as the Niagara Frontier.

Investigator Schwab, a police officer of seventeen years' experience, has, for the last nine years, been involved in enforcing the New York State and United States Federal narcotic laws. Investigator Schwab informed the Commission that there had been a marked change, both in pattern and volume, of drug trafficking in the Niagara Frontier area of New York State, with particular reference to Canada. He dealt with the New York State law dealing with punishment of

drug offenders, particularly the penalty for trafficking, and the increase in U.S. traffickers coming to Canada to obtain their supplies. Mr. Schwab disclosed that heroin capsules purchased in Canada have a higher percentage of pure heroin and thus, command a higher price in New York. The reason for the inclusion of the evidence of Investigator Schwab in this report, is that it closely relates to the evidence of Inspector Sherman of the R.C.M.P. and his knowledge on drug trafficking and enforcement of the law in the region of Niagara Falls and Fort Erie. Inspector Sherman's evidence indicated that in 1973, after the strengthening of the penalty provisions of the New York State drug laws, there was an increase in U.S. citizens coming to Canada to get their supply of illegal drugs, their main source of supply being pushers in Fort Erie, Niagara Falls and St. Catharines. The pushers, among other places, frequented hotels. The reason for a pusher to frequent a hotel or its parking lot is obvious--they are good places to effect a rendezvous and transact business because of their usually crowded conditions. Inspector Sherman's evidence was to the effect that prior to this inquiry, he was not aware of the Landmark being a possible rendezvous for hard drug traffickers. Subsequently, he informed himself, and intelligence reports revealed that the Landmark was a good place to make contact for soft drugs, and that heroin could be purchased. In December, 1973, in the immediate Fort Erie area, eight persons were arrested and

were charged with trafficking in heroin, one with possession of marijuana. Five of the eight arrested were further charged with Conspiracy to traffic in heroin. Further undercover work revealed that twenty to twenty-five heroin addicts from Buffalo were purchasing heroin in Fort Erie; other individuals purchased between fifty to seventy-five capsules of heroin for resale in areas of the State of New York. It is estimated that one-half of the heroin addicts in the Niagara Frontier area get their supplies from Southwestern Ontario. The Niagara Peninsula is one of the major supply areas, due in a large part to its proximity to the United States border

In all fairness to the owners and managers of the Landmark, it must be remembered that traffickers usually arrange their deals so that the exchange of money and delivery of the substance is not simultaneous and is, therefore, separated in place and time. The evidence of Inspector Sherman indicated that the possibility of the management of the Landmark having any knowledge of the modus operandi of the heroin traffickers was very remote and could be said to be impossible. This conclusion was also reached by Constable Sauder, who stated, "I can't implicate the Landmark management or staff with any heroin trafficking."

In the matter of marijuana smoking, the evidence of Constable Sauder was, "I have to say that as far as the smoking of marijuana is concerned in that lounge, it was wide open and the lounge staff knew it was going on."

The observations of the officers and the finding of marijuana itself in various forms of packaging in the public areas of the hotel, lead me to the conclusion that marijuana was being openly smoked, had been observed by the management and was not firmly and effectively suppressed by them or their employees.

CHAPTER IVTHE NATURE OF THE INSTRUCTIONS TO SEARCH

A/Inspector Parkhouse expected that there would be strip searches if the officer in his discretion thought such a search was appropriate.

The complete lack of proper briefing respecting the whole question of frisk and skin searches is best illustrated at Page 262 of the transcript, and I shall set out in some detail the questions by Commission Counsel and replies thereto by A/Inspector Parkhouse.

BY MR. KELLOCK: "You first of all told us it is at the discretion of the officer on the scene as to whether it is to be a strip search or a frisk search. Do you agree with that?"

BY MR. PARKHOUSE: Yes.

Q. I then asked you under what circumstances is the officer on the scene justified in electing in favour of a strip search as opposed to a frisk search?

A. He has to go by way of the individual's attitude where he has observed the individual prior to the search.

- Q. So that in your view you expected the officer on the scene to have some reasonable grounds to elect in favour of a strip search other than the fact that the person was an inmate of the Landmark?
- A. As far as strip searches were concerned, that is right.
- Q. That was your view?
- A. Yes.
- Q. Did you discuss that with Sergeant Millejours?
- A. No, I left that up to the officers who were doing the search -- to their discretion.
- Q. What basis did you have to believe that the officers on the scene would take the same view of the matter that you have just expressed?
- A. Well, experienced officers in doing searches-- the officers who were conducting the searches do drug searches every day. I am not there to direct them as to how they conduct the search. I have to leave that up to their own discretion.
- Q. All right. What instruction, if any, is given by the Regional Police Force to the officers engaged in narcotics enforcement concerning searches?
- A. I don't know if it is laid down in the rules and regulations how it is to be conducted. We take courses at the Ontario Police College. They instruct officers how to carry out searches-- drug searches. If they didn't you might as well

not do one at all.

Q. Did all these officers who were in plain clothes and deployed in this capacity on May 11th have the benefit of these courses at the Ontario Police College, to your knowledge?

A. The senior officers--the Sergeants have attended drug courses. I am not aware of just how many, but they have all had some training. They have training in the field with officers who are experienced in this, and I don't know what the procedure of the R.C.M.P. is, but I have been present when they conduct searches and they are thorough and complete."

The reasonable probability existed that a large part of the female patrons would not be concealing heroin or marijuana in their body orifices or their undergarments. Not one female was even given the benefit of the doubt that she was not acting as a cache for drugs by concealing them on her person.

CHAPTER VSERGEANT ANDRE MILLEJOURS

The other person responsible for the organization and implementation of the search was Sergeant Andre Millejours. He is attached to the Criminal Intelligence Division, N.R.P.F., and has been a police officer for twelve and a half years. He has attended the following courses of instruction and is a conscientious officer reporting directly to A/Inspector Parkhouse:

- (1) He has taken several courses in the Niagara College in the law enforcement program.
- (2) He has taken drug courses at the Canadian Police College which were presented by the R.C.M.P.
- (3) He has attended a seven day seminar at the Ontario Police College, Aylmer, and did attend at Aylmer in the recruit training course in January, 1963, for three months, and served in the C.I.B. for six months for a training period, he believes, in 1966 and 1967.
- (4) He began his duty in drug enforcement in January of 1971.

Between the Fall of 1973 and the Spring of 1974, Sergeant Millejours received by telephone, three anonymous complaints which were as follows:

- (1) Complaintre sale of heroin by Ronald Kupina and Americans being supplied with "bundles" of heroin. (A bundle contains twenty-five capsules of heroin.) The anonymous caller identified one Brent McGillvary as the supplier to Kupina.
- (2) Female complained re "druggies" at Landmark. She and her husband had been patrons; had to stop going there because of a fear of fighting. This caller demanded something be done by the N.R.P.F.
- (3) Male caller said he went to Landmark with girlfriend and was offered pills, (he did not know the kind) and they left.
- (4) At an unrecorded date and time, Sergeant Millejours received complaints from officers at Fort Erie Detachment asking for assistance; some felt it was dangerous to go in there.

The following is a condensed summary of the sequence of events immediately prior to the execution of the warrant to search. I have included portions of the transcript for the better understanding of the evidence.

May 9th, 1974

Sergeant Millejours takes Constables Sauder and Chambers to the Landmark; while there, Sergeant Millejours sees a young person carrying a beer bottle come out of the hotel. As a result of conversation with A/Inspector Parkhouse, and after an examination of Sauder's and Chamber's reports, he is instructed to obtain a warrant to search the Landmark.

Sergeant Millejours spent the following periods of time planning the raid with A/Inspector Parkhouse:

Thursday - a few minutes on the phone

Friday - a few minutes on the phone

Saturday - a few minutes on the phone.

Sergeant Millejours told the Commission that he met two or three R.C.M.P. officers and discussed the raid, but he had not received specific instructions from A/Inspector Parkhouse as to what it was he was to discuss with the R.C.M. Police. Sergeant Millejours remembered that he told R.C.M.P. that the N.R.P.F. would be acting on a warrant and they (the R.C.M.P.), were to assist by searching patrons inside, but no specific arrangements were discussed with the R.C.M.P. or A/Inspector Parkhouse.

Sergeant Millejours' instructions respecting
search of female patrons (P. 146 Transcript)

Sergeant Millejours informed the Commission that he believed that A/Inspector Parkhouse suggested use of Police Women. Sergeant Millejours gave the Commission the following reason for ordering strip searches of all female patrons:

"BY SGT. MILLEJOURS: I have found that women are very often used for transportation of heroin and that they should be searched, and that they should be searched by women."

Mr. Kellock questioned Sergeant Millejours:

"BY MR. KELLOCK: Why, in your judgment, would a woman be used to transfer heroin?"

BY SGT. MILLEJOURS: Up until approximately a year and a half ago, our Force did not have any policewomen and when we did go on searches, or raids, we did not have policewomen available and when we were inside the premises and did search the males we never had the opportunity to search the females as there were no policewomen available. We found that it was very hard to enforce the Narcotics Control Act as our informants were informing us that the heroin traffickers, especially, were using the women

to transport the narcotics and they thought they would be home free, they would not be searched, and this was the case in a lot of searches when we did not search the women. Even now when there is no policewoman available they are not searched. Sometimes they are and sometimes they are not, but we do miss a lot because we do not search women."

From the foregoing statement by the Sergeant, skin searches are apparently necessary when the narcotic heroin is involved because heroin is usually in a very small capsule and is therefore, easy to secrete in the body orifices or clothing.

Mr. Kellock interrogated Sergeant Millejours on his conversation with A/Inspector Parkhouse:

"BY MR. KELLOCK: All right; did you at any time, prior to Saturday, May 11th, 1974, discuss with Inspector Parkhouse the kind of searches that would be carried out as part of this raid?

BY SGT. MILLEJOURS: All I discussed with him was that everybody on the premises would be searched and I do not think the type of search was discussed.

Q. Now, did you say that or he say that? That sounds to me like a statement that would come from a superior to a junior that everybody would be searched?

A. No, we decided everybody would be searched.

Q. You agreed with that?

A. Yes, I agreed."

Millejourns' reason for searching "Everybody"

"BY MR. KELLOCK: Whether or not there were any grounds to believe that the particular person had anything to do with it?

BY SGT. MILLEJOURS: From my information from the officers investigation, it was quite obvious that drugs were openly used in the premises, and it was my feeling at that time that anybody that attended there would be aware of drugs being on the premises -- being smoked on the premises or being used on the premises, and that they would be subjected to the search. They would be aware of what was going on.

Q. Were you aware, Sergeant, that some citizens had complained about the situation at the Landmark because they were not that kind of person? They were offended by it.

A. They left.

Q. But they were at one time in the hotel?

A. Yes, and they left.

Q. But you might suspect there would be similar persons in that hotel at the time of the raid?

A. Very possible, but very remote.

Q. In your mind it was remote?

A. Yes. It is my estimation they would leave."

8:00 p.m., May 10th, 1974, at Police Headquarters,
St. Catharines, Ontario.

Sergeant Millejours tells Policewomen that they are to accompany Sergeant Shennan and himself to the Landmark. The Sergeant then instructs them as to what their duties would be and that he had a warrant to search. The deployment of the two Sergeants and two Policewomen was as follows: All were to be in plainclothes and all were to get into the hotel without being recognized--act as patrons and make observations as to offences under The Liquor Control Act; Narcotic Control Act; Food & Drugs Act, or any other breach of the peace. At approximately 11:00 p.m., when the raid commenced, they were to search the females, question them and record their names and see that after being searched, the officers in communication with C.P.I.C. interview them. The uniformed men would be assisting them by escorting the female patrons to the ladies washroom, where the female policemen were to conduct a skin search.

Mr. Kellock questioned Sergeant Millejours:

"BY MR. KELLOCK: Did Inspector Parkhouse tell you to search anybody by having them remove all their clothing up to the point that you were discussing this matter with the policemen?"

BY SGT. MILLEJOURS: No.

Q. So that you took it upon your own authority to make that an order, or at least to make that a suggestion?

A. That is correct."

Policewomen MacDonald and Hexemer in their evidence, informed the Commission that they had described to Sergeant Millejours the type of search they have been trained to do.

"BY SGT. MILLEJOURS: They described to me that the persons being searched would undress and hand the clothing to the policewomen. They would search every piece of clothing for drugs and they would look in their hair, in their ears, under their armpits, under their feet---"

There was to be NO PHYSICAL CONTACT other than parting their hair, if necessary, to look behind the ears.

All the males were to be searched, i.e., the male persons Sergeant Millejours felt should be searched and the type of search, frisk or skin, was left to the discretion of the officers who had been detailed to conduct the search. The impression given to the Commission was that it was Sergeant Millejours' view that the policewomen should not be given a discretion as to which type of search they were to use, they were not experienced enough to exercise their discretion. The reason why the female patrons were to be treated differently than the male patrons was explained to the Commission by the Sergeant:

"BY SGT. MILLEJOURS: Usually when we go in on a search of this type, whether it is a motel or hotel or dwelling, if there are any drugs on the premises, and in this case there were quite a few people present, they do pass the drugs on to the women and they stuff them down their pants and they think they are home free. The male gets away. The female is not searched and there are no charges laid. We have conducted a few searches this way and to my experience I have found this to be true. Also, when it comes to heroin trafficking, women are the carriers of bundles and this is where they carry them and the only proper way to find these is to search them thoroughly."

It is noted that prior to the raid, Sergeant Millejours never did discuss with A/Inspector Parkhouse the form of personal search, i.e., skin or frisk of either the women or the men who would be at the Landmark.

At the Landmark - 10:30 - 10:35 p.m.

Two policewomen, Sergeant Shennan and Sergeant Millejours arrive dressed in casual clothes.

Acting as doorman was Ron Kupina, known to Sergeant Millejours as a drug trafficker and user.

Kupina tells them they will have to wait because of the crowded condition.

While waiting, an unidentified person says, "Won't the 'Narcs' have a ball here to-night". ("Narcs" - a Police Officer enforcing the Narcotic Control Act.) While the two Sergeants and the two Policewomen are waiting to be admitted, Constable Sauder comes out of the Landmark and tells Sergeant Millejours that he has been recognized and was leaving. Sergeant Millejours goes to the unmarked police car to contact A/Inspector Parkhouse by radio. While Millejours is contacting Parkhouse, Constable Boston then tells Sergeant Millejours that Constable Miller of the Boston-McLaren and Miller group, had been recognized. By previous arrangement, Constables Miller, Boston and McLaren were all supposed to be in the Landmark.

At this crucial period prior to the arrival of the Force under the command of A/Inspector Parkhouse, Constables Miller and Sauder have been recognized by the doorman, Kupina.

Constable Boston tells Sergeant Millejours that nobody inside the Landmark appeared alarmed. Millejours receives no further word from any other plainclothes police officers, some of whom were still inside. Sergeant Millejours tells A/Inspector Parkhouse via radio what has taken place. Parkhouse then orders the uniformed officers to proceed to the Landmark.

Sergeant Millejours enters the Landmark, goes to loudspeaker system and makes an announcement:

("This is the Regional Police. I have a search warrant pursuant to Section 3(1) of the Narcotic Control Act. Put your hands on the table and everyone will be searched. This will be done orderly and as quickly as possible, thank you.")

Sergeant Millejours related to the Commission his conversation with John Lane Senior, the questioner being Commission Counsel.

"BY SGT. MILLEJOURS: At this time the owner, Mr. Edward John Lane, he came up to me and I believe he was with Inspector Parkhouse. He came to me at the bar and told me he was the owner. I asked him to accompany me to the kitchen area in here.

BY MR. KELLOCK: Yes?

A. I identified myself to him and showed him the warrant pursuant to Section 3(1) of the Narcotic Control Act and I asked him about the premises.

Q. Yes?

A. I asked him about the drug problem in his hotel and he said there was nothing he could do about it.

Q. And you're now speaking about Mr. Lane Senior or Junior?

A. Mr. Edward John Lane Senior, the owner.

Q. And there was nothing he could do about it, yes?

A. There was nothing he could do about it. He said, 'It is the band who draws these people,' and, 'I am going to get rid of the band'. He told me the band brought the drug problem. He said, 'They are finished this week,', and that is what he said. He was getting rid of them and they were finished this week."

Sergeant Millejours, while in the Landmark, searched the floor of the public areas and found two bags, later analyzed as "marijuana" and capsules containing methaqualone. The search of the public areas was not as thorough as could be expected, as a witness in the proceeding related how he had secreted marijuana in a bench after the raid had started and then returned the next day and retrieved his marijuana.

At this point in time, it is well to remember that Sergeant Millejours has apparently assumed that those females he observed who had male companions were sufficiently acquainted that if the male had heroin, the female would be more than willing to accept it and conceal the heroin on her person. Only a frisk search would be necessary for the men in case they had marijuana or some other drug on their person. On the other hand, all the women should be skin searched for

heroin because her male friend might have given heroin to her to secrete it on her person with the mistaken idea that she would be immune from search.

The testimony of the Sergeant followed: (P. 217)

"BY SGT. MILLEJOURS: I think that anybody that would be there and did not want to participate in drugs would leave. They would know they were there."

The Sergeant then recorded the names of the staff on duty:

- (1) John Lane Junior - Manager
- (2) Edward John Lane - Owner
- (3) Timothy James Farrell - Waiter
- (4) Michael Leyland - Bartender
- (5) Wayne Barnhardt - Bouncer
- (6) Mario Casarsa - Waiter
- (7) Ron Kupina - Doorman
- (8) Richard Van Koughnett - Bartender

Sergeant Millejours, when questioned as to any complaints re police conduct, replied: (P. 218)

"BY SGT. MILLEJOURS: As far as I am concerned, there was no confusion. This was run in a very professional manner....."

"Everybody seemed to be jolly in the place. There was no confusion. Everything was orderly."

CHAPTER VITHE SEARCH OF THE FEMALE PATRONS

For the better understanding of the evidence, I have set out in some detail, the experience and qualifications of the two female police officers, along with a summary of their briefing prior to the execution of the warrant to search.

Constable Sandra MacDonald (P. 775 Transcript)

Twenty-three years old. Police Officer since March 5th, 1973. Grade XII education and a former bank employee. Constable MacDonald graduated from Aylmer Police College recruit Course and has had varied experience in person searching; and had conducted some seventy strip searches prior to May 11th, 1974. She attended in-service lectures on recognition of drugs and where same could be concealed on the human body. At the Lincoln County Jail, the head matron instructed her in the types of searches that the female Police Constables would be expected to conduct. These searches were to take place after an arrest and were either a frisk search, i.e., the clothing, ears, nose, socks, shoes, underside of feet, and the obvious parts of the female capable of concealing any prohibited substance; or a strip search, where all clothing was removed and all garments thoroughly searched. The person searched would draw their hands through their hair and then expose

their rectal and vaginal area. At no time during a strip search was the subject to be touched, and if the female being searched had something in the rectal-vaginal area and refused to remove same, a duly qualified medical doctor would be requested to attend and remove the object. The female Police Officers were never to attempt to remove any object.

Constable MacDonald informed the Commission of the instructions she received from Millejours re her duties on the night of May 11th, 1974.

- (1) She was to report to A/Inspector Parkhouse at 8:00 p.m., on May 11th, 1974.
- (2) Sergeant Millejours then instructed both Constable Sandra Hexemer and Constable MacDonald that they were to strip search the female patrons.
- (3) Constable MacDonald, during her brief surveillance of the Landmark and its patrons, did not expect to see, and did not see, any known female drug traffickers.

Constable MacDonald holds the rank of a third class Constable and did not question any of the Sergeant's instructions.

- (4) She was further advised by Sergeant Millejours that there was a warrant available if anyone wanted to see it and Constable MacDonald had seen the warrant held by Millejours.

9:00 p.m., A/Inspector Parkhouse arrives at
Headquarters, St. Catharines.

- (1) Constable MacDonald is told by A/Inspector Parkhouse that uniformed men would be stationed throughout the motel and at different doors.
- (2) Constable MacDonald informed the Commission that A/Inspector Parkhouse may or may not have mentioned strip searching the female patrons.
- (3) Constable MacDonald is informed that Sergeants Millejours and Shennan, with Constable Sandra Hexemer and she, would go to the Landmark and attempt to gain entrance before the execution of the warrant to search.
- (4) At the Landmark, while waiting to be admitted, Constable MacDonald recognizes the doorman, Ronald Kupina, whom she had seen on another raid, and assumed Kupina had seen her.

Inside the Landmark

- (1) Constable MacDonald, after gaining entry and when returning from locating the female washroom and seeing no one was in there, observed uniformed Police Officers coming in the doors. She immediately proceeded to the washroom to ensure no one disposed of anything and no one attempted to do so. While there, she is joined by Constable Sandra Hexemer.

- (2) Female patrons begin to come in a couple at a time.
- (3) Constable MacDonald observed that the outer door to the washroom was open all evening but was not unduly alarmed about this.
- (4) She and Constable Hexemer were to search while one or the other recorded the names, addresses and birth dates of the ladies or females found on the premises.

The Washroom Searches

The following is a resume of how the two female Police Officers conducted the search of the female patrons:

Their purses were searched, name, address, and birth date recorded, and then they were conducted to the line of patrons waiting to be checked through Canadian Police Information Centre. While in the Landmark, Constable MacDonald searched eighteen females. The two female police Constables would and did identify themselves to anyone asking who they were, and informed them of the warrant to search and that there is, under the Narcotic Control Act, the power to search anyone on the premises.

Both female officers told the Commission that they made no attempt to see if anything was concealed or protruding from the body of the person being searched, merely glanced to see if anything fell out.

During the removal of the clothing and the examination thereof, the Police Constables attempted to keep the clothing neat and clean by not putting it on the floor and treating same with consideration.

Re: Miss Kerry Berhalter (P. 806 Transcript)

The evidence of this lady, a student nurse age 20, highlighting as it does, the dearth of instructions to the female officers, necessitates that Miss Berhalter's testimony be set out.

Miss Berhalter had recently suffered an experience of great emotional shock and was obviously upset. She was able to see other girls searched. Constables MacDonald and Hexemer explained to her the law respecting the search provisions of the Narcotic Control Act, but Miss Berhalter remained insistent that she would not be searched unless she telephoned her father. This reluctance to be searched caused Constable MacDonald, who did not know Miss Berhalter, to be suspicious of Miss Berhalter. Constable MacDonald contacted A/Inspector Parkhouse to tell him re the problem with Miss Berhalter's refusal to be searched. A/Inspector Parkhouse instructed her to the effect that she was to be searched at all costs. A/Inspector Parkhouse was not told that a strip search was contemplated by the two Constables.

Apart from the refusal by Miss Berhalter to be searched, the Policewomen present had no grounds whatsoever to believe that Miss Berhalter had committed any offence of any kind, and the same applied to all the ladies searched that evening. Miss Berhalter did eventually remove most, but not all, of her clothing after being informed that male help would be requested by the female police officers. Both Policewomen assured the Commission that this was a hollow threat and they said the same to compel Miss Berhalter to voluntarily remove most of her clothing.

Police Constable Sandra Hexemer

Constable Hexemer's biographical details are as follows:

Twenty-five years old, graduate in Arts from York University. Joined the Niagara Regional Police Force in 1973. Graduated from the three month training course at the Police College in Aylmer.

Constable Hexemer received the same instruction in drug recognition and search procedures as Constable Sandra MacDonald, and was aware that if something suspicious was found in the rectal or vaginal area, it could only be removed by a doctor or a registered nurse.

May 11th, 1974, 8:00 p.m.

Constable Hexemer was also told to report in casual dress, and at the briefing was told by Sergeant Millejours about the observations of the undercover officers with respect to the Landmark. She informed the Commission that, "Sergeant Millejours told us it would be our duty to strip search all the females there."

She was shown the warrant. In Constable Hexemer's experience, she has found marijuana in a plastic bag, along with heroin, M.D.A. (a restricted drug) and speed, in the crotch area of females.

At or near the conclusion of the briefing by Sergeant Millejours, A/Inspector Parkhouse arrived, and the two female Police Constables were questioned by A/Inspector Parkhouse concerning their awareness of their duties. P.C. Hexemer explained to the Commission that she had told Parkhouse that "our duty would be to search all the females there."

The phrase "strip search" was not used by either the Inspector or the Constables.

At the Landmark

While waiting to be admitted along with Police Constable MacDonald and the two Sergeants, she saw Constable Sauder come out and heard him tell Sergeant Millejours, "Some of the guys have been burned. It is getting pretty hot in here." Subsequently, she entered with the uniformed officers and assisted Constable MacDonald to strip search all the females.

In concluding this portion of the report respecting the female searches, it must be noted that no narcotics or suspected narcotic drugs were found on any of the females searched. No female was charged and none arrested.

The steps taken by the Officers in charge of the raid to ensure that male or female persons about to be searched were not isolated from those already searched and thus prevent the passing of a narcotic, one to the other, was a weakness in procedure which may have had the affect of diminishing the full effectiveness of the raid, and in fact, some females were not searched at all.

CHAPTER VIITHE ALLEGATION OF PHYSICAL ABUSE OF KEVIN STEELEBY CONSTABLE MILLS OF THE R.C.M.P.

Kevin Steele, who is twenty years of age, told the Commission of his attendances at the Landmark a couple of times a week for four or five months prior to May, 1974. He admitted smoking marijuana only prior to going and after leaving the Landmark. This smoking, on his own admission, was in the parking lot of the Landmark. He did this on at least two occasions.

On the evening of May 11th, 1974, he arrived at the Landmark at approximately 9:30 p.m., after consuming two or three beers in a two hour period. While in the Landmark, he consumed a further three bottles of beer between 9:30 and the time of the raid at 10:50 p.m. Mr. Steele admitted being told by one Mario (he did not know his last name) that there were a couple of R.C.M.P. officers in the Landmark. This conversation took place immediately before the police entered. Prior to the raid, Steele did not recognize any police officers.

In his evidence, Mr. Steele admitted that he had heard an announcement over the loudspeaker to the effect that "Nobody move" and he observed uniformed officers coming into the Landmark. His evidence was that he (Steele) was told by what he assumed to be police officers--even though they did

not identify themselves as such--to come with them. Steele replied in the negative. As a result, Steele alleged that he was grabbed by one Officer who started pulling him, while another Officer started pushing him. On cross-examination, after being told that he was to be skin searched in the washroom, he informed the Officer pushing him that he would regret it. Mr. Steele explained these words by saying that he was infuriated by this brusque and rough approach. According to Steele's evidence, he entered the washroom with a Mr. Manzo and a Mr. Annunziata and several Police Officers. In the washroom, Steele related that Constable Mills of the R.C.M.P., with both hands, seized him by the hair (which was shoulder length) and either bounced him off the partition between the urinals and toilets, or "waltzed" him around the walls fifteen to twenty times, and threw him to the floor. Mr. Steele informed the Commission that he was uninjured, except he experienced some tenderness to his head as a result of his hair being pulled. This tenderness was, apparently, of short duration.

On being examined by the Commissioner, he related that he remembered Constable Mills saying to him, "Never threaten an R.C.M.P.," and further, that, "The guy (presumably Mills) grabbed me by the hair and hit me against the wall a couple of times and on the floor."

Apart from the conversation prior to his entry to the washroom, Steele's evidence was to the effect that he was told by the Officers to remove his clothing. Steele said that the Officer ordering him to remove his clothes, used, in its adjectival sense, the vulgar verb meaning the act of sexual intercourse. Mr. Steele removed his clothes without any force being applied to his person, and was, in spite of his allegation of being waltzed around and repeatedly slammed into partitions (a total of fifteen to twenty times) and finally thrown to the floor, still able to dress himself and leave the washroom unaided, with his body and clothing intact.

In respect of the observation concerning his clothing, one Angelo Annunziata told the Commissioner that Kevin Steele's shirt was "torn from his body". Mr. Steele, in his evidence, never alluded to this very outstanding observation by Mr. Annunziata. Annunziata also informed the Commissioner that Constable Mills threw Steele off two walls once and to the floor once.

Prior to Mr. Steele giving evidence, Constable Mills of the R.C.M.P. had given evidence to the effect that while in the washroom he had heard Steele threaten a Constable. Constable Mills admitted that he placed his hand on Steele's shoulder and told him, "Young man never threaten a police officer."

Steele admitted this took place. This admonition was verified by Angelo Andrew Annunziata who was present in the washroom.

Evidence as to what took place prior to Steele's entry into the washroom was given by Constable Oickle, who said he and Constable McLaren had escorted Steele to the washroom. Kevin Steele is apparently acquainted with Constable Oickle and Constable Oickle related that Mr. Steele has on several occasions prior to May 10th, 1974, expressed his strong dislike for Police Officers.

Present in the washroom at the time of Steele's arrival was Constable Cyr, who related that he did not observe any incident that attracted his attention. Evidence given by Constable Oickle disclosed that Steele had threatened Constable McLaren, thus causing Mills to give Steele the advice that he did. According to Steele, he was searched by Constable Mills, who said he didn't know if Steele was searched or not. Oickle says he (Oickle) searched Steele.

The evidence of a Mr. Donald Rivet (P. 1376 of the Transcript) reveals that he observed Kevin Steele being struck in the chest by a uniformed Police Officer, while a non-uniformed Officer held Steele. This observation was made by Rivet prior to Steele's entry into the washroom. During the whole course of his direct and cross-examination, and my own exami-

nation, Mr. Steele did not mention being punched or hurt by a Police Officer, a singularly violent episode which Mr. Steele should recall (but he remembered only the hurt to his hair). I find any of Mr. Rivet's evidence somewhat difficult to accept, as he had taken part in a beer drinking contest, consuming at least ten glasses of beer and coming "a close second to the winner. Before being searched, Mr. Rivet, informed the Commission that he managed to have "another swig of beer".

One Vincent Manzo, age twenty-one, a three to four times a week patron of the Landmark, related to the Commission that in the washroom he had heard Steele, while he was tucking in his shirt, say, "Listen man I don't want no hassle".

The most significant evidence that Mr. Manzo, a cousin of the witness Annunziata, gave, was that Mr. Steele came out of the washroom looking the same way as he went in. He didn't appear to be hurt, quite able to walk, and, "He looked o.k. to me".

He further stated that his hair was mussed a little and that he had never heard him call for help, he had only heard arguing and yelling.

Constable Mills was recalled to specifically deal with Steele's allegations and he denied them.

There are many variations in the observations of the witnesses, even those who could be classified as impartial eye-witnesses to the supposedly same events, and I can only conclude that Constable Mills did not assault Kevin Steele in the manner described by Steele or any other manner.

CHAPTER VIII
THE LAW RESPECTING THE SEARCH OF PERSONS
AND INSTRUCTIONS TO
PEACE OFFICERS RESPECTING ITS ENFORCEMENT

I find that the entry of the police on the evening of May 11th, 1974, was lawful. Entry could have been obtained by the officers at any time under the authority of Section 10(1) of the Narcotic Control Act, which provides that:

"A Peace Officer may at any time:

- (a) Without a warrant enter and search any place other than a dwelling house, and under the authority of a writ of assistance or a warrant issued under this Section, enter and search any dwelling house in which he reasonably believes there is a narcotic, by means of or in respect of which an offence under this Act has been committed;
- (b) Search any person found in such place; and
- (c) seize and take away any narcotic found in such place."

Subsection (2) of Section 10, provides that:

"A Justice who, is satisfied by information upon oath that there are reasonable grounds for believing that there is a narcotic, by means of, or in respect of which an offence under this Act has been committed, in any dwelling-house may issue a warrant under his hand authorizing a peace officer named therein at any time to enter the dwelling-house and search for narcotics. Likewise, a Judge of the Exchequer

Court, (now a Federal Court,) may issue a Writ of Assistance, 10(3) for the purpose of entering dwelling-houses to search for Narcotics."

From the foregoing, it is obvious to me that a peace officer need not obtain a warrant for any place other than a dwelling house.

When considering amendments to any statute respecting the control of any drug or narcotic, my recommendation is that any avenue open to the capricious use of the power to search be delineated by simply requiring peace officers when exercising the power to search to have reasonable grounds. Let the Parliament of Canada continue to grant them the right to search but require the peace officers to act within the realm of reasonable probabilities and not mere suspicion.

A careful reading leaves me in some doubt as to whether reasonable or probable grounds are required only for warrants or whether a peace officer is required to have reasonable and probable grounds to enter "places" without a warrant.

In the case of Regina V. Jaagusta, (1974) 3 W.W.R., P. 766, the learned Judge held that reasonable and probable grounds applied to any entry under Section 10 of the Narcotic Control Act. If this is not the law, I submit it should be and the ambiguity, if any, removed by amending legislation.

Due to the insidious machinations used by drug traffickers, it is often necessary to use informers--and I am not suggesting that such information would not be reasonable and probable grounds.

I recommend the retention of the evidentiary rule respecting information supplied by informers. Frequently, confidential information is the sole foundation on which law officers act. The name of the informer and his information must continue to remain privileged.

Inspector Lloyd Stancil Smith, R.C.M.P. Drug Enforcement Co-ordinator, gave evidence (P. 1773 of Transcript) in respect to instructions given to the R.C.M.P. Constables concerning searches relating to the enforcement of drug laws. Inspector Smith produced to, and filed with the Commission as Exhibit 48, the guidelines for the R.C.M.P. searches. Such guidelines are contained in the Operational Manual. At P. 1787 of the Transcript, Inspector Smith read into the record, the following statement of policy which became effective June 12th, 1974.

- "1. Before any search is conducted, the investigator must first establish reasonable and probable grounds that illicit drugs, by means of or in respect of which an offence has been committed, are on the premises. Mere suspicion is not adequate grounds to conduct a search.

2. Notwithstanding the fact that Section 10(1) of the Narcotic Control Act and 37(1) of the Food and Drugs Act provide authority to search any person found in a place where a search is underway, the utmost discretion must be used in all cases. A found-in will not be strip searched unless the investigator possesses reasonable and probable grounds that the person is in physical possession of prohibited goods or evidence of the commission of an offence. This is not meant to discourage the physical search of persons arrested for a specific offence.
3. When conducting investigations involving small amounts of cannabis, members of the Force should not resort to the investigational techniques utilized in the investigation of offences involving heroin or other similar narcotics. Seizing a person by the throat or subjecting suspects to complete strip or internal searches will normally be considered excessive. If members do resort to these investigational techniques, they must be prepared to justify their actions.
4. Due to the nature of drug enforcement duties, and the fact that physical contact is frequently encountered, it is mandatory that all drug investigations be conducted with the utmost care and professionalism."

To illustrate the thoughts of an experienced law enforcement officer, I have inserted the following from the transcript, at which time Mr. Kellock was interrogating Inspector Smith:

"BY MR. KELLOCK: Now can I ask an opinion, Inspector Smith. You are familiar with Section 10 of the Narcotics Control Act and subsection (b) does not have any condition precedent stated in that subsection -- it may be arguable that one can be merged into it from paragraph (a), but subsection (b) simply reads now that: 'A Peace Officer may at any time search any persons found in said place, i.e. a place that has been lawfully entered.' Would it impair in any way the enforcement of the drug laws in Canada if reasonable grounds for suspecting the presence of a drug or instrument or evidence of the commission of an offence, was a condition precedent to the search of a person?

BY MR. SMITH: Generally speaking, I don't think so, because we do want to have some reasonable grounds before we do search these people.

Q. In fact, those are your current instructions?

A. Yes, sir.

Q. Now in your experience, where do professional, rather than amateur, heroin traffickers conceal heroin, or carry heroin?

A. The ones -- the traffickers that have been in the business for some time and know how the police operate (it doesn't take them long to find out) if they are carrying it they generally like to have it where they can dispose of it fast, maybe in their hand, maybe in their mouth, so they can swallow it, maybe have a courier, an agent, carrying it for them. They may have the drug cached outside, sometimes in the toilets, on occasion they will carry it, if a male, in their hand; within their body cavities in the female.

Q. On occasion?

A. Yes, sir.

Q. What kind of occasions -- I can understand that one would have it where you get rid of it fast, but why would someone have it somewhere where you can't get rid of it fast?

A. If the -- I don't know, I don't know why, some do it on occasion, some think it is pretty safe, I guess. If they have been subjected to the search, I don't think they'd do it -- not too much chance of them doing it again, when they know how difficult it is for them to get rid of it. But this is a practice they will use.

Q. Where do people ordinarily carry marijuana?

A. I think just about any place, but it is common for a man to carry it down their shorts or in their -- it can be in their pocket, again, it is going to depend how professional they are, if they are a major operator, there is a good chance they are going to be using carriers of some type, we have had them using juveniles because they know the juvenile, if caught, the penalty is not going to be very great for a juvenile.

Q. In your experience, have you ever heard of marijuana being carried or concealed in the rectum or the vagina?

A. No sir."

The foregoing excerpts from the training manual and the opinions of Inspector Smith, emphasize the necessity for the same to be adopted into the training manuals of the law enforcement agencies in the Province of Ontario. If Parliament and the Legislature in their wisdom do not consider this to be sufficient, they should pass remedial legislation forthwith so that the occurrence respecting the female patrons at the Landmark will not happen again.

CHAPTER IX
PRINCIPAL FINDINGS OF FACT

- (1) The briefing given to all the members of the searching force - plainclothes and uniformed, was not sufficiently thorough. There was no cohesive control of the procedures used by the Officers during the actual search.)
- (2) The decision to use local Officers to act as undercover agents was ill advised.
- (3) The decision by A/Inspector Parkhouse to proceed with the execution of the search warrant after being advised that the undercover Officers had been identified by known and suspected persons involved in narcotic trafficking, was on the evidence made available to him not a prudent move, even though no mass exodus of patrons had been observed.
- (4) The two female Officers who conducted the searches of the female patrons did so under instructions from Sergeant Millejours, who arbitrarily, by the mere fact that they were in the Landmark, assumed that all the female patrons of the Landmark would be concealing narcotics on their persons.

If any examination of the vaginal and rectal areas of any of the females was done, and at no time was there deliberate physical contact, the Officers lacked the authority to remove any material they may have observed.

In the confined washroom area and poor lighting, they could not do a thorough search. If any foreign substance was detected, the female Police Officers were required to have a doctor conduct an examination in a medically approved way and under sanitary conditions. I am satisfied on the whole of the evidence, that they did an unpleasant and largely unnecessary task, as well as they could and were the victims of improper briefing and directions by their superior. Even at the scene, when requesting directions re Miss Berhalter, the arbitrary directions given by A/Inspector Parkhouse was not in the circumstances reasonable. He made no inquiry as to her reasons for declining to be searched, or what suspicious activities, if any, she had been engaged in prior to the entry by the Police or any other time.

- (5) The Officer in charge of the raid did not take proper precautions to ensure that there would be complete privacy for the female patrons during the strip search.
- (6) The entry by the Police Officers into the Landmark on the 11th day of May, 1974, was lawful.
- (7) On the basis of the evidence that I heard, the prime objective of the operation was the apprehension of narcotic traffickers and users of narcotics, principally marijuana.

- (8) All members of the searching force acted in good faith.
- (9) The conduct of all the male and female officers, with one exception, was correct.
- (10) The unknown officer who knocked Mr. Lockhart backwards onto a table, acted with excessive and unnecessary force.
- (11) I find as a fact on the evidence and on examination of the scene of the assault, that Constable G. E. Mills of the R.C.M.P., did not assault Mr. Kevin Steele.
- (12) The Writs of Assistance used by the R.C.M.P. Officers who possessed them, to search the dwelling units of patrons found in the Landmark public areas, was a necessary adjunct to the overall search, and was soberly and advisedly done, in most cases, on reasonable and probable grounds, but contravened the direct order of which they had no knowledge, of the Chief of Police to A/Inspector Parkhouse.
- (13) The complete lack of a thorough search of the automobiles on the premises, showed a lack of in-depth planning of the search operation.
- (14) On the whole of the evidence, I have come to the conclusion that the people known to the police as heroin users and traffickers, left before the raid.

CHAPTER XGENERAL COMMENTS AND RECOMMENDATIONS

Within the wording of the Narcotic Control Act, I find that the Police Officers and Constables acted lawfully. There is no evidence whatsoever to indicate that the Police Officers responsible for the inception, planning, and execution of the raid, made anything but honest decisions, and their actions were in good faith and fully in accord with their obligations to uphold the law.

The standard of conduct expected of Police Officers by the public, is of the highest. The conduct of the Police Officers on the night in question was by and large, understandable, with the exception of the ill-conceived instruction given to the two female Police Officers by Sergeant Millejours to strip search all the females. Such instruction by the Sergeant was founded on two premises. First, that all the females at the Landmark would know that violations of the drug laws were taking place; and secondly, his training in drug enforcement had taught him to realize that on many occasions, male traffickers and users would, when their apprehension was imminent, pass the drugs to their female companions, who would conceal them in their undergarments. Marijuana, in its usual dried bulk form, is too bulky to conceal on the body. The instructions issued to the two Police Women by Sergeant Mille-

jours lacked judgment. He placed the two Policewomen in a position of conducting searches on persons innocent of any wrong doing. At the time of such order being given and subsequently, A/Inspector Parkhouse and Sergeant Millejours had no reasonable grounds to suspect the females were concealing heroin on their persons.

The actions of the Policewomen were, on a literal interpretation of the law, strictly correct. The facilities in the ladies' washroom in the Landmark were not adequate, and sufficient thought was not shown by the Officers in charge of the operation to ensure privacy and, of equal importance, ensure the isolation of those searched from those about to be searched.

On the evidence, I am satisfied Policewomen MacDonald and Hexemer did no more than the law permitted them do do. They avoided any unnecessary body contact with the persons being searched, and did an unpleasant and unnecessary task as proficiently and efficiently as the limited facilities permitted.

Some of the witnesses referred to the search conducted by the two female Police Officers as "degrading", "humiliating", and "unnecessary". Others did not complain at all. Some Nationals from the United States were unable or refused to attend to give evidence.

On the whole of the evidence, in respect to the search of the female patrons by causing them to disrobe and subject themselves to a cursory glance of their buttocks and genital areas, I am satisfied that there was not a shred of evidence to support a suspicion that any of the female patrons had concealed heroin or any like substance on their persons prior to the search. In this sense, the wholesale search was foolish and unnecessary, as not one female was even seen with a known heroin or other drug trafficker.

The blanket categorization by Sergeant Millejours in respect of his assessment of the calibre of all the patrons of the Landmark, cannot be said to be objective. His order to Constables Sandra MacDonald and Sandra Hexemer to strip search all the females, was irresponsible, even though he acted honestly and in good faith. There is no doubt that there were on the premises, many admitted users of drugs other than heroin, but the search of the females was for concealed heroin or some other drug, and was based on the assumption they had had it passed to them for concealment. No such evidence was adduced.

I am satisfied that it was never the intention of Sergeant Millejours or the two Policewomen to humiliate or degrade any of the female patrons.

CHAPTER XI
MAJOR RECOMMENDATIONS

- (1) Persons found in a place other than a dwelling house, where there is no reasonable cause to believe that they are in possession of a narcotic or anything incidental to possession of a narcotic by themselves or others, should not be subject to search when the only basis for the search is their legitimate presence in such place.
- (2) The senior officers responsible for the planning and execution of large scale operations of this type should receive instructions so that they are fully acquainted with the problems and the necessity for close liaison and communication.
- (3) That the Lieutenant-Governor in Council recommend to the Government of Canada that the Narcotic Control Act be amended in accordance with the recommendation in paragraph (1), so that Section 10(1)(b) be amended to read:-
" (b) Detain for the purpose of searching any person found in such place whom he reasonably believes has possession of such narcotic."
- (4) That Justices of the Peace of the Province, who have been categorized as being sufficiently competent to issue warrants to search, be equipped with sufficient office equipment to allow them to keep documents issued by them in the execution of their judicial acts.

- (5) That after the search of a room, person, or vehicle has been completed, the searching officer must restore the room and/or vehicle to its original condition and return to a person, any and all goods after the same have been found to be legitimate articles.
- (6) The Intelligence Unit of the Niagara Regional Police Department be either disbanded or integrated more fully into the existing command structure.
- (7) Sufficient physicians and registered nurses should be sworn in as peace officers to enable them to conduct searches of females who are suspected of secreting narcotics or similar substances in their body orifices.
- (8) That the plan of operation by the Brantford Police Force, under the direction of Inspector Leonard O'Connell, in respect to their operation against the Graham Bell Hotel, Brantford, on the 23rd of November 1973, be studied in depth as to how a raid should be planned and conducted, as well as the operations conducted by Detective Sergeant M. J. Scragg, O.P.P., of the Liquor Laws Enforcement section, Special Services Division.

CHAPTER XIICONCLUSION

Before closing this Report, I must recite, in a sense, a litany, using the conjunction "if".

If more time had been spent in planning and detailing specific instructions to designated officers; if those responsible for the further education, training and direction of the Niagara Regional Police Force had exercised a tighter control of the operation; if those persons had envisaged the reasonable probability that all the females present in the Landmark would not be willing drug caches for their male companions; and if arrangements for the use of Police Officers from some other Force had been made, rather than the ill advised scheme of employing local undercover officers, the Royal Commission to Investigate the Conduct of Police Forces at Fort Erie on May 11th, 1974, might never have been issued, and that evening's operation might have resulted in a search which would have crimped the illegal traffic in marijuana, heroin and other prohibited narcotics. In those circumstances, the Niagara Regional Police Force would have been commended for their diligence.

In considering any amendments to the laws respecting the control of narcotic or dangerous drugs, it is of the utmost necessity that Canadian law enforcement officers are not impeded

to the extent that the only persons to benefit from such laws will be those craven creatures in our society who traffic in drugs.

In his summation to the Commission, counsel for the Niagara Regional Board of Commissioners of Police, made the following submission:

"Policemen, like everyone else, must be held accountable for their errors and mistakes, but they should not be pilloried for an honest exercise of their judgment based upon the facts as they are known to them, which, in the end result, may be wrong."

It must never be forgotten that any Police Force is a skilled group of men and women, their organization created by statute, who do the work that all citizens by law are obliged to undertake. Being themselves citizens, specifically designated to uphold the law, they are only human and do, in the course of their duties, the things that they ought not to do and leave undone the things they ought to have done. Therefore, let the laws which they are required to enforce, touching the liberty of the subject as nearly as possible, be clear and devoid of ambiguities.

A P P E N D I X A

EXHIBITS REFERRED TO IN REPORT

Exhibit No.

17. Report from Constable K. Sparling.
18. Memorandum from Constable B. Chamber, dated May 5, 1974.
19. Memorandum from Constable B. Chambers, dated May 10, 1974.
20. Memorandum from Constables R. Sauder and B. Chambers, dated May 11, 1974.
21. Memorandum from P.C.L. DeSimone, dated May 2, 1974.

May 28, 1974.

The following information was received by Constable K. Sparling of the Fort Erie Detachment Regional Police in regards to drug activity at the Landmark Motel, Netherby Road, Fort Erie.

On the evening of Thursday, April 25, 1974, I received information from a reliable source that a man and woman were in the Fort Erie Hotel on Wednesday, April 24, 1974 during the evening. This couple were selling nickel and dime bags of marijuana to the patrons. While trying to sell a bag to my informant a conversation was overheard to the effect the couple were through at the Fort Erie Hotel and were going to the Landmark Motel to get rid of their bags.

On Saturday April 27, 1974 received information that two Fort Erie boys; one Joe DiFrancesco, Gilmur Road and Mario Casarsa, Henrietta Street were selling drugs at the Landmark Motel. I received a rough sketch on a piece of paper of a route taken by the above two boys to a house in Niagara Falls occupied by one Brent MacGillivray. Apparently a transaction was made with MacGillivray and then the route back to the Landmark Motel where the drugs were sold.

The above information turned over to Intelligence Branch.

Constable K. Sparling

NIAGARA REGIONAL POLICE FORCE

MEMORANDUM

To Acting Inspector F. Parkhouse

From Constable B. Chambers

May 5, 1974.

Subject Lounge, Landmark Motor Inn-Hotel, R.R. 2 Stevensville.

As instructed by you at our meeting of May 2nd, I conducted an investigation into the operation of the lounge at the Landmark Motor Inn-Hotel. My investigation consisted of visits to the premises on Friday, May 3rd between 10:30 p.m. and 11:30 p.m. and on Saturday, May 4th between 10:00 p.m. and 10:30 p.m. On both visits I posed as a patron.

The following is a list of points of interest, which I observed:

Friday, May 3rd.

1. The outer doors leading from the parking lot to the Hotel lobby were locked; a doorman unlocked the door to allow me entry.
2. Paid \$1.00 admission fee.
3. A male entered the premises carrying a paper cup containing an unidentified liquid; he was not stopped or questioned by the doorman who appeared to see the cup.
4. The doorman and two other males, who occupied the lobby, carried open bottles of beer.
5. There were empty beer bottles and glasses all around the lobby.
6. I ordered a beer and when I was served I was told that the beer was on the house. No explanation was given for getting the free beer.
7. I could detect a strong odor of marijuana in both the lounge and the mens washroom.
8. The lounge was occupied by 87 patrons.
9. I could see no lounge licence posted.
10. I could see no notice indicating the maximum number of patrons allowed upon the premises.

11. One of the two bartenders uttered obscene language to both male and female patrons when he communicated to them.
12. I seen a male roll two cigarettes, believed to be marijuana, then share in smoking them with the six others (four males and two females) who were sitting at the same table. They made no attempt to conceal their behaviour, which was seen by a waiter, who made no attempt to stop them.
13. Patrons were allowed to walk freely around the lounge and lobby with their drinks.
14. No one appeared to be in control of the premises.

Saturday, May 4th

1. The outer doors leading from the parking lot to the Hotel lobby were locked; a doorman unlocked the door to allow me entry.
2. Paid \$1.00 admission fee.
3. A male in the lobby was consuming a bottle of beer.
4. There were empty beer bottles and glasses all around the lobby.
5. I could detect a strong odor of marijuana in both the lounge and the mens washroom!
6. The lounge was occupied by 115 patrons.
7. I watched a male and three females, seated against the west wall at the bar, share what appeared to be a marijuana cigarette without making any attempt to conceal their behaviour.
8. I could see no lounge licence exhibited.
9. I could see no notice indicating the maximum number of patrons allowed in the lounge.
10. I watched two males and a female, who were seated at the bar, share what appeared to be a marijuana cigarette without making any attempt to conceal their behaviour. They were seen by a bartender who approached them and said to the female, "Hey, you don't have to make it so obvious."
11. I watched a male remove a clear vial from his pocket, remove a capsule from it and hand the capsule to another male, who put it in his mouth.

In conclusion, it is my opinion that management of the Landmark Motor Inn-Hotel has no control over the patrons and that management is making no attempt to operate within the regulations of the Liquor Licence Act. Furthermore, it appears the premises is frequented by drug users,

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who are allowed to use drugs openly upon the premises.

Respectfully submitted,

BRUCE S. CHAMBERS

MEMORANDUM

To Acting Inspector F. Parkhouse

From Constables R. Sauder and B. Chambers

May 10, 1974.

Subject Lounge, Landmark Motor Inn-Hotel, R.R. 2, Stevensville.

Further to the memorandum of Constable Chambers on May 5th.

On May 10th, as you instructed, Constable R. Sauder and Constable B. Chambers attended at the Landmark Motor Inn-Hotel and made observations regarding the operation of the premises. The following are observations of interest that we made:

1. The outer doors leading from the parking lot to the Hotel lobby were locked; a doorman unlocked the door to allow us entry.
2. A male in the lobby carried an open bottle of beer.
3. A youth, who appeared under 18, was walking around the parking lot with an open bottle of beer.
4. There was a number of empty beer bottles and empty glasses around the lobby.
5. There was an odor of marijuana detected in the mens washroom, the lounge and on the clothing of a male patron seated at the bar.
6. The lounge was occupied by 41 patrons.
7. There was no lounge licence exhibited.
8. There was no notice indicating the maximum number of patrons allowed in the lounge.
9. The behaviour of the patrons was rowdy.
10. No one appeared to be in control of the premises.

Respectfully submitted,

BRUCE S. CHAMBERS

NIAGARA REGIONAL POLICE FORCE

MEMORANDUM

To Acting Inspector F. ParkhouseMay 11, 1974.From Constables R. Sauder and B. ChambersSubject Lounge, Landmark Motor Inn-Hotel, R.R. 2 Stevensville

Further to the memorandums of May 5th and May 10th on the subject.

On May 10th, as you instructed, Constable R. Sauder and Constable B. Chambers again attended at the Landmark Motor Inn-Hotel and made observations regarding the operation of the premises. Our visit was between 10:30 p.m. and 11:30 p.m. The following are our observations of interest:

1. The outer doors leading from the parking lot to the Hotel lobby were locked; a doorman unlocked the door to allow us entry.
2. Paid \$1.00 admission fee each.
3. The doorman was carrying an open bottle of beer around the lobby.
4. A strong odor of marijuana could be detected in the mens washroom and the lounge.
5. There was no lounge licence exhibited.
6. There was no notice indicating the maximum number of persons allowed upon the lounge.
7. The lounge was occupied by 120 patrons.
8. Watched nine persons (five men and four women) seated at a table, share four cigarettes, believed marijuana, without making any attempt to conceal their behaviour. The cigarettes were rolled at the table.
9. Watched three persons at the bar (two males and one female) share what was believed to be a marijuana cigarette, without making any attempt to conceal their behaviour.
10. The patrons were allowed to walk freely around the lounge and lobby with their drinks.
11. We were given two free beers.

Respectfully submitted,

BRUCE S. CHAMBERS

NIAGARA REGIONAL POLICE FORCE

MEMORANDUM

To S/Sgt. Wilson

May 2, 1974.

From P.C. L. DeSimone

Subjeet Landmark Motel

On May 1, 1974 I was speaking to Ron Kupina at the Landmark. He informed me that Norm Perrett is pushing dope to teenagers at the Landmark. Perrett makes his deals at the rear of the Landmark. Perrett gets his dope from a George Tataric from St. Catharines. He operates a 66 Chev Bel Air dark in colour.

Respectfully submitted,

L. DE SIMONE

A P P E N D I X BEXHIBITS - HEARING

1. Order in Council dated June 7 - 1974.
2. Notice to witness re Canada Evidence Act.
3. Photograph of Landmark Motor Inn.
4. Photograph of Landmark Motor Inn with Queen Elizabeth way in foreground.
5. Map of Regional Municipality of Niagara.
6. Sketch - Floor plan of Landmark Motor Inn.
7. Book - Group of 27 photographs of Landmark Motor Inn.
8. Sketch plan of Landmark Motor Inn interior minus furniture - with plastic overlap.
9. Niagara Regional Police organization chart.
10. Red file folder containing typewritten version of original occurrence reports with regard to the Landmark Motor Inn for 1973-74.
11. Statement of searches by Niagara Regional Police in the period 1973 to May 31, 1974.
12. Warrant to search residence of Edward J. Lane.
13. Warrant to search premises of Landmark Motor Inn.
14. Photo of Policewoman MacDonald.
15. Photo of Policewoman Hexemer.
16. Certificate of analysis dated July 9, 1974.
17. Memorandum dated May 28, 1974 signed by Constable K. Sparling.
18. Memorandum from Constable Chambers dated May 5, 1974.
19. Memorandum from Constable Chambers dated May 10, 1974.
20. Memorandum from Constable Chambers dated May 11, 1974.

21. Memorandum from Constable L. DeSimone dated May 2, 1974.
22. Report of Constable R. L. Cudney.
23. Report of Constable Dennis Parry.
24. Sketch of Landmark Motor Inn, driveway and parking lots.
25. List of patrons found at Landmark Motor Inn.
26. List of persons charged.
27. Picture of Patrick Wilson with Sgt. Shennan.
28. Picture of Norman Ernoff with Sgt. Tallfer.
29. Certificate of analysis dated May 31, 1974.
30. "Hash" pipe marked "Landmark 11 May 1974".
31. Photograph indicating location where pipe found.
32. Book - Niagara Regional Police Reports - Jan 1, 1973 to May 31, 1974 - drug searches and arrests at Hotels, Motels, Restaurants, etc.
33. Picture - Cpl. Renzis R.C.M.P. with Nick Von Richthofen.
34. List of females searched at the Landmark Hotel by Constable MacDonald.
35. List of females searched at the Landmark Hotel by Constable Hexemer.
36. Photograph - west side, lounge area, Landmark Motor Inn.
37. Photograph - bar area, Landmark Motor Inn.
38. Photograph - east side, lounge area, Landmark Motor Inn.
39. Photograph - booth, east side, lounge area, Landmark Motor Inn.
40. Photograph - Restaurant area, Landmark Motor Inn.
41. Photograph - Restaurant area, Landmark Motor Inn.
42. Sketch of Landmark Motor Inn indicating table arrangement on May 11, 1974.

43. Copy - Lounge Licence under the Liquor Licence Act issued to Edward John Lane.
44. Copy of Dining Lounge Licence under the Liquor Licence Act issued to Edward John Lane.
45. Photograph of police tape machine.
46. Photograph of police tape machine.
47. Booklet - drug related crimes and the Law.
48. Pamphlet - R.C.M.P. re searches.
49. Pamphlet - Ontario Police College - Search and seizure with and without warrant.
50. Pamphlet - Ontario Police College - Narcotics and Controlled Drugs.
51. Pamphlet - Ontario Police College - notes - N.C.A. and Food & Drug Act.
52. Report of raid on Brantford Hotel.
53. List of females searched at Landmark Hotel.
54. List of persons at Landmark Hotel on May 11, 1974 and list of those charged.
55. Affidavit of John William Lidstone.

APPENDIX C.

Further evidence gathered by two of the members of the investigating staff is most illuminating and shows that to some degree at least the patrons of the Landmark were not all devotees of the particular brand of music being played there on May 11th, 1974.

Summary of the Evidence of Sgt. Patricia
Joan Post, Metropolitan Toronto Police Force

On the night of the raid forty-five females were present; forty-four were located; one was a resident of Florida, U.S.A.; thirty-eight alleged they had been skin searched; seven eluded the search; ten females were under eighteen years of age; one female only was charged; nine used false identification or gave a false date of birth; one gave wrong date of birth plus wrong address; twelve were American citizens; twenty-eight were Canadian citizens; nineteen were called to testify (seventeen Canadian - two American.) Every one of these did not wish to be called as a witness. Forty of the forty-four interviewed admitted using or had used drugs. Thirty-eight admitted still using drugs. Sixteen testified at the Inquiry; all, with one exception, said the skin search was degrading. Nineteen who did not testify expressed feelings of embarrassment; two were not too upset.

The majority of those interviewed felt they were humiliated by having to strip in front of females other than

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the policewomen. Ten said if they had been alone with the policewomen they would not have felt humiliated; others were embarrassed because of age and having been caught in a raid.

Evidence of Inspector Alistair Kenneth MacLeod, O.P.P.

Inspector MacLeod interviewed seventy male persons; fifty-six patrons; one police officer; three persons who were in the Landmark earlier in the evening; six members of the staff; four members of the band.

Three persons present on the night of May 11, 1974 could not be contacted. Fifty-six male persons received clothing frisk; twenty-one of these testified. Eight were searched twice; four testified. One person was searched six times, (Mr. Lockhardt); two persons were searched four times, (Mr. Hannah and Mr. Foster); one person was searched three times, (Mr. Cook, who did not testify); nine persons were searched twice; thirty-three persons were searched once. Fifteen persons were skin searched, (eight testified). Two of the fifteen said they were skin searched twice. Six persons were not searched.

Complaints

Nine were definitely upset by the police action; twenty-four indicated they were not upset; eight were upset because their evening was ruined; seven were upset because of

3.

embarrassment and inconvenience; three were upset by being searched twice; two were upset because of being assaulted by police officers, both testified, (Mr. Steele and Mr. Lockhart); thirteen were upset for various other reasons.

Drug Use

Sixteen admitted present use; twelve had used; eight did not use but had tried; fifteen did not use; fourteen would not say.

A P P E N D I X D

Witnesses were called at each public hearing as listed below:

Sergeant Harold Wheeler
Regional Chief Albert Edward Shennan
John M. Teal
Robert Wood
Earl Fare
Sergeant Andre Millejours
Inspector Frank Henry Parkhouse
Sergeant Harry Stitt
Constable Robert Gunter
Constable Peter Gill
Sergeant James Danko
Constable John Joseph Berkljacic
Constable Steven MacLeod
Constable Robert Sauder
Carl Edward Chandler
John Roy Simms
Constable Richard Ruthven
Constable Michael Riddell
Michael Mooney
Constable John Kopinak

Tony Bruce MacLaren
Sergeant Robert Shennan
Inspector Alfred Turnbull
Constable William Thomas Boston
Constable Bruce Scott Chambers
Corporal Joseph Renzi
Constable Sandra MacDonald
Constable Sandra Hexemer
Constable Gary Mills (R.C.M.P.)
Constable Thomas Cyr (R.C.M.P.)
James Tailleser
Sergeant Roscoe Robert Masonavich
Constable Ralph Miller (R.C.M.P.)
Constable Allan Marshall (R.C.M.P.)
Constable Richard Barlow (R.C.M.P.)
Constable Glen Oickle (R.C.M.P.)
Paul Kelly
Edward John Lane
Wayne Barnhardt
Mario Casarsa
Michael Leyland
Jonathan Perry Lane
Marsha Sahli
Janet Holmes

Angelo Annunziata

Vincent Manzo

Glenda Forbes

Kerry Berhalter

Dorie Griffiths

Steven Fenwick

Gaye Lapp

Bonnie Colacci

Frank Colacci

Heather Flynn

Timothy Foster

Donald Rivet

Michael Chalmers

Heather Anne Hughes

Karin Glapski

Deborah Ariss

Gregory Cox

Armand Concessi

Thomas Humphry

Maryanne Maldovan

Richard Platts

Cindy Tait

Mary Ellen Rider

Bev Harvey

Patrick Wilson

Mark Spiers

Marjorie Bakewell

Kevin Steele

Joanne Hochworter

Donald Moore

Cheryl Moore

John Buchanan

Robert Hanna

Richard Van Koughnett

Francis Murray

David Roy MacDonald

Terry Lockhart

Constable Douglas Brooks

Inspector Thomas Warry

William Thomas Francis Sherman

Lloyd Schwab

Inspector Lloyd Smith (R.C.M.P.)

Glenwood Skaftfeld

Inspector Leonard O'Connell (Brantford Police Force)

"Morris" Joseph Scragg (Ontario Provincial Police)

John Ross Wilson (Inspector, Metropolitan Toronto Police)

Inspector Louis Lawson (Peel Regional Police)

Staff Inspector Keith Farraway (Hamilton-Wentworth Police)

Sergeant Patricia Joan Poast (Metropolitan Toronto Police)

Inspector Alistair Kenneth Macleod (Ontario Provincial Police)

William Evans

Vincent Seniunas

